



IN REPLY REFER TO:

United States Department of the Interior

FISH AND WILDLIFE SERVICE

1011 E. Tudor Road
Anchorage, Alaska 99503-6199



AFES/MMM

MAR 26 2009

Mr. J.D. Weeks
UltraStar Exploration, LLC
1629 W. 11th Avenue
Anchorage, Alaska 99501

Dear Mr. Weeks:

This responds to your October 27, 2008, request for Letters of Authorization (LOA) for the incidental and intentional take of polar bears in regards to the UltraStar Exploration, LLC (UltraStar) 2009 Dewline Deep Prospect.

Enclosed is a LOA (09-19) that would allow UltraStar to take small numbers of polar bears incidental to oil and gas industry exploration activities identified in your LOA request. UltraStar proposes to drill an exploratory well south of the dewline site between points Storkersen and McIntyre. The Dewline Deep Program includes construction of a 2.2 ice road and pad construction as well as the mobilization, drilling, and demobilization of one drilling rig to support exploration activities. The proposed start date for this project is January 2009.

If any changes develop in your project during the 2009 project season you must notify the Marine Mammals Management Office (MMM) prior to the planned operation. This would allow us to evaluate the activity and, if appropriate, amend your LOA.

In addition to protection measures for marine mammals described in the UltraStar polar bear interaction plan (Bear-Personnel Encounter Plan, Dewline Deep #1 Drilling Program, North Slope, Alaska, October 24, 2008), the U.S. Fish and Wildlife Service (Service) believes that UltraStar personnel can limit human/polar bear interactions by being observant of approaching animals (i.e., the use of marine mammal observers) and breaking off interactions, if practicable, by allowing the animals to continue their travel. Service biologists are available for consultation if questions or concerns arise regarding polar bears during the project period at the phone numbers listed below and noted in your interaction plan.

This letter also includes a deterrence authorization (enclosed), for UltraStar and its representatives to take polar bears by harassment (deterrent activities) for the protection of both human life and polar bears while conducting activities in polar bear habitat for Spring 2009 Activities. This authorization is issued specifically to UltraStar employees who are responsible for ensuring that trained and qualified personnel are assigned the task to harass (deter) polar

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bears. It is the responsibility of UltraStar personnel to report all polar bear harassment events to our MMM Office within 24 hours. Intentional take is authorized under sections 101 (a)(4)(A), 109(h), and 112(c) of the Marine Mammal Protection Act (MMPA).

If a polar bear interaction escalates into a life threatening situation, Section 101(c) of the MMPA allows, without specific authorization, the take (including lethal take) of a polar bear if such taking is imminently necessary in self-defense or to save the life of a person in immediate danger, and such taking is reported to the U.S. Fish and Wildlife Service, Marine Mammal Management Office within 24 hours.

Furthermore, in accordance with section 7 of the Endangered Species Act of 1973, as amended (ESA), issuance of this LOA also fulfills the requirements for Tier 2 Consultation of the Programmatic Biological Opinion for the activities described herein. In the "Programmatic Biological Opinion for Polar Bears (*Ursus maritimus*) on Beaufort Sea Incidental Take Regulations" (June 2008; Tier 1 BO), the Service determined that the total take anticipated as a result of the issuance of the Regulations is not likely to result in jeopardy to the polar bear, in accordance with section 7 of the ESA. In order for the Tier 2 BO to be consistent with the "no jeopardy" conclusion of the Tier 1 BO and for an ESA incidental take statement (ITS) to be provided: (1) the proposed activity must provide the required information, as described in §18.124 of the Regulations; (2) the LOA must include any mitigation measures that the MMM Office believes appropriate for the specific activity and location, as described in §18.128 of the Regulations; and (3) the MMM must determine that the incidental take for the specific activity will be consistent with the negligible impact finding for the total take allowed under the Regulations.

Reasonable and prudent mitigation measures, as well as implementing terms and conditions were included for MMM in the Tier 1 BO and have been incorporated into the LOA process. Issuance of this ITS with the LOA completes ESA requirements for authorization of incidental take of the polar bear. Compliance with the terms and conditions of this LOA insures that the LOA holder is also in compliance with the ESA.

An additional requirement of this LOA is to provide observational data of polar bears throughout the project and a complete report of all observations at the conclusion of the project to document take. This final report will be provided to the MMM. This report meets the tracking and reporting requirements relative to the documentation of take as required by the MMPA and the ESA.

Mr. J.D. Weeks

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This authorization is issued in accordance with Service regulations listed at 71 FR 43926, dated August 2, 2006. Should you have any further questions contact Mr. Craig Perham of our Marine Mammals Management Office, at (907) 786-3800 or 786-3810.

Sincerely,

A handwritten signature in blue ink, appearing to read "Rosa Meehan", with a long horizontal flourish extending to the right.

Rosa Meehan, Ph.D.
Chief, Marine Mammals Management

Enclosures

cc: Bob Britch, Northern Consulting Group
Mr. Richard Shideler, ADF&G
Fairbanks Fish and Wildlife Field Office (FWFO)
USFWS Office of Law Enforcement (OLE)
North Slope Borough Department of Law





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AFES/MMM

ISSUED: March 17, 2009
EXPIRES: December 31, 2009

LETTER OF AUTHORIZATION (09-19)

UltraStar Exploration, LLC (UltraStar) is hereby authorized to take small numbers of polar bears incidental to activities occurring during the 2009 Dewline Deep Prospect. A detailed description of the authorized activities can be found in the, "Plan of Operations, Exploration Drilling Program, Dewline Deep Prospect, North Slope, Alaska," dated October 24, 2008.

This authorization and the required conditions below apply to contractors of UltraStar performing UltraStar-approved work under the scope of operations identified in the Dewline Deep Drilling Plan. UltraStar proposes to drill an exploratory well south of the dewline site between points Storkersen and McIntyre. The Dewline Deep Program includes construction of a 2.2 ice road and pad construction as well as the mobilization, drilling, and demobilization of one drilling rig to support exploration activities. The proposed start date for this project is January 2009.

This authorization is subject to the following conditions:

1. The Operations Manager will be fully aware, understand and capable of implementing the conditions of this authorization.
2. This Authorization is valid only for activities associated with UltraStar's 2009 Dewline Deep Prospect, as specified in UltraStar's October 24, 2008 application.
3. The Polar Bear Interaction Plan (Bear-Personnel Encounter Plan, Dewline Deep #1 Drilling Program, North Slope, Alaska, October 24, 2008) is hereby approved, and all provisions unless specifically noted are incorporated into this authorization by reference. A copy of this polar bear interaction plan must be available on site for all personnel.
4. Intentional take is prohibited under this authorization.



5. Polar bear monitoring, reporting, and survey activities will be conducted in accordance with 50 CFR 18, section 18.128. The basic monitoring and reporting requirements follow:


- UltraStar must cooperate with the Service, and other designated Federal, State, or local agencies to monitor the impacts of oil and gas exploration activities on polar bears;
- UltraStar must not conduct activities that operate nor pass within 1 mile of known polar bear dens, and all observed dens must be reported to the Marine Mammals Management Office, Fish and Wildlife Service within 12 hours of discovery. Should occupied dens be identified within one mile of activities, work within a one-mile area will cease and the Service must be contacted for guidance. The Service will evaluate these instances on a case-by-case basis to determine the appropriate action. Potential actions may range from cessation or modification of work to conducting additional monitoring, and UltraStar must comply with any additional measures specified.
- UltraStar must designate a qualified individual or individuals to observe, record, and report the effects of the activity on polar bears to the Service within 24 hours of visual observation. Evidence of polar bears, such as tracks, carcass, or dens, will also be reported;
- UltraStar must allow the Fish and Wildlife Service to allow an observer on the site to monitor the impacts of the activity on polar bears, at the discretion of the Fish and Wildlife Service;
- UltraStar must submit an annual monitoring report to the Marine Mammals Management Office as required under 18 CFR 18.128(f), which will be received up to 90 days after the expiration date of the LOA.

6. Per the "Programmatic Biological Opinion for the Beaufort Sea Incidental Take Regulations for Polar Bear (June 2008)", your request also triggers the second of the two-tiered programmatic process. In order for incidental take of the polar bear to be exempted from the prohibitions of the ESA, the LOA also serves as an "Incidental Take Statement" (ITS), required under section 7 of the Endangered Species Act of 1973 (ESA). Issuance of the LOA/ITS fulfills the requirements for Tier 2 Consultation of the Programmatic Biological Opinion for the activities described in this letter.

7. This authorization expires December 31, 2009.



Chief, Marine Mammals Management



Date



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AFES/MMM

ISSUED: March 17, 2009
EXPIRES: December 31, 2009

U.S. Fish and Wildlife Service

AUTHORIZATION TO TAKE, BY HARASSMENT, POLAR BEARS (INT09-08)

By Sections 101(a)(4)(A), 109(h), and 112(c) of the Marine Mammal Protection Act of 1972, as amended, UltraStar Exploration, LLC (UltraStar) is authorized to take, by harassment, polar bears during their exploration activities at the 2009 Dewline Deep Prospect. This authorization is restricted to harassment activities. Authorized individuals are responsible for documenting and reporting to the U.S. Fish and Wildlife Service, Marine Mammals Management Office, (907) 786-3800, instances involving harassment activities as soon as possible and not later than 24 hours from the occurrence. A final report of all encounters and hazing events is due 60 days from the expiration of this authorization. This Authorization is valid from the date of issuance to December 31, 2009, unless terminated in writing.

Section 101(a)(4)(A) states that, "Except as provided in subparagraphs (B) and (C), the provisions of this chapter shall not apply to the use of measures:

- (i) by the owner of fishing gear or catch, or an employee or agent of such owner, to deter a marine mammal from damaging the gear or catch;
- (ii) by the owner of other private property, or an agent, bailee, or employee of such owner, to deter a marine mammal from damaging private property;
- (iii) by any person, to deter a marine mammal from endangering personal safety; or
- (iv) by a government employee, to deter a marine mammal from damaging public property, so long as such measures do not result in the death or serious injury of a marine mammal.



Section 109(h)(1) states that "nothing in this title (Conservation and Protection of Marine Mammals) shall prevent a Federal, State, or local government official or employee or a person designated under Section 112(c) from taking, in the course of his or her duties as an official, employee, or designee, a marine mammal in a humane manner (including euthanasia) if such taking is for:

- (A) the protection or welfare of the mammal,
- (B) the protection of the public health and welfare, or
- (C) the non-lethal removal of nuisance animals."

The purpose of authorizing taking by harassment, or deterrence, is to maintain human and bear safety and welfare in polar bear habitat. Authorizing Level B harassment take reduces the likelihood of death or injury of polar bears. This is accomplished by the following objectives:

1. Prevent bears from associating food with humans and facilities
2. "Train" bears to avoid people
3. Allow bears to use travel routes (natural and man-made) to move along the coast
4. Prevent bears from extended use of areas around facilities

Harassment authorization is subject to the following conditions:

1. The polar bear interaction plan (Bear-Personnel Encounter Plan, Dewline Deep #1 Drilling Program, North Slope, Alaska, October 24, 2008) is approved and all provisions, unless noted specifically, are incorporated into this Letter of Authorization by reference. A copy of the polar bear interaction plan must be available on site for all personnel.
2. UltraStar Operations Managers, or their designates, must be fully aware, understand, and capable of implementing the conditions of this authorization.
3. This authorization is valid only for those activities identified in the request for a Letter of Authorization dated October 24, 2008.
4. This authorization is restricted to harassment activities.
5. Authorized individuals are responsible for documenting and reporting to the U.S. Fish and Wildlife Service, Marine Mammals Management Office, (907) 786-3800, all instances involving harassment activities as soon as possible and not later than 24 hours after the occurrence.
6. This authorization is issued specifically to UltraStar who is responsible for ensuring that trained and qualified personnel are assigned the task to harass (deter) polar bears to Service standards.

7. Activities will not operate nor pass within 1-mile of known polar bear dens, and all observed dens will be reported to the Marine Mammals Management Office, Fish and Wildlife Service immediately. Should occupied dens be identified within one mile of activities, work in the immediate area will cease and Service will be contacted for guidance. The Service will evaluate these instances on a case-by-case basis to determine the appropriate action. Potential responses may range from cessation or modification of work to conducting additional monitoring.
8. Basic polar bear monitoring and reporting requirements follow. UltraStar will:
 - cooperate with the U.S. Fish and Wildlife Service to monitor the impacts of project activities on polar bears;
 - designate a qualified individual or individuals to observe, record, and report the sightings of polar bears;
 - report sightings of polar bears or polar bear sign (using the polar bear observation form) through the duration of the project within 24 hours of initial observation by FAX (907 786-3816) or email (craig_perham@fws.gov);
 - submit a report to the Marine Mammals Management Office within 60 days after the expiration of the authorization.
9. Hazing techniques must not cause the injury or death of a bear. Types of hazing techniques may include, but are not limited to:
 - Bear Monitors;
 - Air horns;
 - Electric fences;
 - Chemical repellents;
 - Acoustic recordings;
 - Vehicles;
 - Projectiles: cracker shells, bean bags, rubber bullets, screamers, etc.
10. Prior to conducting a harassment activity, operators must:
 - Reduce/eliminate attractants;
 - Secure site; notify supervisor; move personnel to safety;
 - Ensure bear has escape route(s);
 - Ensure communication with all personnel.
11. When conducting a harassment activity, operators must:
 - Chose the method that will have the least effect on the bear and increase the intensity of the method or use additional methods only if necessary;

- Shout at the bear before using projectile (avoidance conditioning);
- Move bear in proper direction; continue with minimally necessary deterrents to receive desired result.

12. After a harassment event has occurred, operators must:

- Monitor bear movement (to ensure no return);
- Notify supervisor and personnel to resume work;
- Fill out report to be sent to the Service as required under condition 4 (within 24 hours).

13. This Authorization is valid for the period indicated on this authorization, unless terminated in writing by the applicant to the U.S. Fish and Wildlife Service, Marine Mammals Management Office.

Signed: _____

Rosa Meek

Date _____

3/26/09